

OPINION

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

ALEJANDRO MARTINEZ-VASQUEZ,	§
Movant,	§
	§
v.	§ CIVIL ACTION NO. B-07-91
	§ (CRIMINAL NO. B-02-285)
UNITED STATES OF AMERICA,	§
Respondent.	§

ORDER

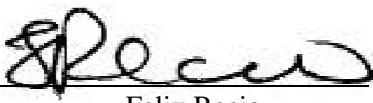
Petitioner Alejandro Martinez-Vasquez (Vasquez) brings before the Court a Motion to Enlarge Time for Filing Objections to the Report and Recommendation of the Magistrate Judge, and a Motion for an Order Nunc Pro Tunc Premised on Excusable Neglect to Timely Object To the Magistrate's Report and Recommendations. These two documents are docket entries numbers thirty-one and thirty-three. Both motions request that the time to file objections to a Magistrate's Report and Recommendation issued on September 16, 2008, as docket entry sixteen, be extended. (Doc. 16). However, that report was superceded by a new report on December 15, 2008. (Doc. 28).

To the extent that the petitioner requested an extension to object to the original report, and that report has now been superceded by a subsequent report, those requests are now moot and those requests are DENIED. The ten day period began anew on December 15, 2008, when the superceding report and recommendation was issued by the Court.

The Court also takes judicial notice that both reports are substantively identical, with only one sentence being changed to improve readability. Therefore, Petitioner as of today has had four months to object to the substance of the report and recommendation issued by the Court. Moreover, even assuming that the petitioner was in fact in transit and thus had no access to a law library or the court documents necessary to respond; that transit ended on November 7, 2008. The petitioner has

had since at least November 7, 2008, to object to the Court's report and recommendation, and has given no reason for failing to do so as of today. Therefore, unless the petitioner shows further cause for not filing his objections to the superceding report and recommendation by December 26, 2008, the time for objections to that report has also passed.

IT IS SO ORDERED. DONE at Brownsville, Texas, this 7th day of January 2009.



Felix Recio
United States Magistrate Judge